

**EXHIBIT 1**

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1 to Viper 9 in the Bronx, when I got -- that was after I was  
2 placed on modified.

3 Q. When you were at IAB in '95 until you were  
4 transferred, do you know approximately how many hours of  
5 overtime a week you worked?

6 A. Exactly weekly, I can just give you a figure, I  
7 don't know exactly how much it was, because it all depends  
8 how many times we went out. I would say maybe ten or  
9 15 hours a week, maybe.

10 Q. Did they have a procedure as to who would work the  
11 overtime?

12 A. Most of the time it was -- it was members of the  
13 field team.

14 Q. And you were on the field team?

15 A. I was the undercover.

16 Q. Approximately how many people were on the field  
17 team?

18 A. Maybe about six detectives and police officers, and  
19 one or two sergeants and a lieutenant.

20 Q. Did you ever have an opportunity to meet a Thomas  
21 Rachko?

22 A. Never.

23 Q. What about a Julio Vasquez?

24 A. Yes.

25 Q. When did you meet Mr. Vasquez?

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1 Q. Do you recall whether you found this out before or  
2 after you were questioned in July of 2004 by the defendants?

3 A. I was questioned by the defendant?

4 Q. In your complaint, you allege that in July of 2004  
5 you were questioned by defendants Teran, Mejia, Scollan, and  
6 Morton. I am trying to find out whether you recall finding  
7 about Vasquez being investigated. Was that before or after  
8 the incident that's alleged in your complaint?

9 A. That was before.

10 Q. You said a Sergeant Schumacher or Garland may have  
11 told you about Vasquez being investigated. Did you speak to  
12 Vasquez after you found out about the investigation into him?

13 A. No.

14 Q. To your knowledge, did Mr. Vasquez ever try to  
15 contact you after you found out about the investigation  
16 involving him?

17 A. Not to my knowledge, no.

18 Q. Did you ever come to find out that Mr. Diaz was  
19 being investigated for stealing drugs and money from drug  
20 dealers?

21 A. I think I found that out when these guys showed up  
22 at my door.

23 Q. "These guys" meaning the defendants?

24 A. The defendants.

25 Q. Except for Raymond Kelly?

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1 A. Correct.

2 Q. When you say you think you found it out when they  
3 showed up, is it your testimony that the defendants told you  
4 that Mr. Diaz was being investigated?

5 MR. GREENWALD: Well, could we break it down,  
6 because we have several defendants, so let's get it  
7 down, who said what now.

8 Q. You just testified that you found out when they  
9 showed up at your door. How did you find out?

10 A. Well, they wanted me to place a phone call in to  
11 Detective Nieves-Diaz.

12 Q. Who was that?

13 A. It was mostly -- Sergeant Teran was the one asking  
14 me if I would do it, and Captain Scollan.

15 Q. When you found out on or about Thanksgiving 2003  
16 about Vasquez being investigated, did you speak to anyone in  
17 the department about the investigation?

18 A. In which way?

19 Q. Did you have any discussions about specifically  
20 Vasquez, about the FBI or the NYPD investigating Vasquez?

21 A. No, just what was out there, general knowledge of  
22 the stuff that was in the newspaper and word of mouth.

23 Q. When was the first time you met defendant Deputy  
24 Inspector Thomas Scollan?

25 A. The first I met him was when he was in front of my

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1 he had shown up?

2 MR. GREENWALD: That's a mischaracterization.

3 You have on the record that he figured and your  
4 question was correcting him. He suspected it, but  
5 now you're --

6 Q. Why did you suspect or figure that he had shown up?

7 A. Well, there was an FBI agent at my door, I figured  
8 that was the only incident. I didn't think he would be there  
9 for anything else.

10 Q. Let me just back up. When you say that was the  
11 only incident, what incident specifically are you referring  
12 to?

13 A. I'm saying I never had an FBI agent come to my  
14 door, so I figured the incident with Julio Vasquez, that's  
15 why he was there.

16 Q. Up until that day that the FBI agent showed up at  
17 your apartment, have you had any recent conversations with  
18 Mr. Vasquez?

19 A. When I found out Mr. Vasquez had that problem, I  
20 didn't even want to talk to the guy because he was the  
21 subject of an investigation, and I didn't want to get  
22 involved with Mr. Vasquez because now he's a subject. In  
23 other words, we're not supposed to associate with that type  
24 of people.

25 Q. So you hadn't spoken to him, right?

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1 A. No.

2 Q. What did the FBI agent say next?

3 A. At that time, when he identified himself, then the  
4 rest of the field team, which was Sergeant Teran, Captain  
5 Scollan, and the rest of the people showed up, and they  
6 surrounded me right by the -- with the FBI agent.

7 Q. Were they in a separate car?

8 A. They came in separate cars, yes.

9 Q. How many cars were there, total?

10 A. I think it was three.

11 Q. So you said they came up and they surrounded you.  
12 At that point what did Sergeant Teran say, if anything?

13 A. Well, they identified themselves also.

14 Q. Then happened next?

15 A. Then the FBI agent and Sergeant Teran proceeded to  
16 ask me questions.

17 Q. Let's start with the FBI agent. Do you recall what  
18 questions he asked you?

19 A. Well, he asked me general questions, if I knew  
20 Detective Vasquez, and he also asked me if I knew Detective  
21 Nieves-Diaz, if I knew a Lieutenant Concepcion, who worked in  
22 -- I think he worked in Brooklyn South Narcotics.

23 Q. And did he tell you why he was asking you whether  
24 or not you knew them?

25 A. No.

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1 A. Well, he was asking me questions also, how did I  
2 know Nieves-Diaz, how did I know Vasquez.

3 Q. Were they asking you at the same time or were they  
4 taking turns?

5 A. They were taking turns.

6 Q. Did Lieutenant Mejia say anything at that point?

7 A. I don't recall. I know it was mostly Teran and the  
8 FBI agent at that time.

9 Q. At that time. And we're talking about right in  
10 front of your apartment, right?

11 A. Yes.

12 Q. What about Sergeant Morton, did he say anything?

13 A. I don't recall him asking me anything, no.

14 Q. What about Scollan at that time, right in front of  
15 your house?

16 A. Well, he was there, but I don't think he asked me  
17 anything at that moment.

18 Q. When you said that they surrounded you, can you  
19 just identify who the "they" is?

20 A. The whole field team that was there.

21 Q. So they all got out of the car?

22 A. Yes.

23 Q. After they asked you, "they" meaning Agent Hosey  
24 and Teran asked you about your communication with Vasquez and  
25 Nieves, what else happened?

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1           A.     Then he became very condescending, and he told me,  
2     "Suppose I tell you a couple of hundred times." That's when  
3     I told him, "You know what? I think this sounds like an  
4     official investigation. I want to go to the 48 so I can get  
5     a delegate and a lawyer."

6           Q.     What did he say?

7           A.     He didn't say anything. He stopped questioning me,  
8     but Captain Scollan told me, no, we're not going to the 48.

9           Q.     And when you said it sounded like an official  
10    investigation, what did you mean?

11          A.     Well, he got very condescending, and I didn't like  
12    his tone of voice.

13          Q.     At this point were you still in front of your  
14    apartment?

15          A.     Yes.

16          Q.     Did Agent Hosey say anything else after that?

17          A.     I think he stopped questioning me after I told him  
18    I wanted a lawyer.

19          Q.     You said you wanted a lawyer?

20          A.     A lawyer and a delegate.

21          Q.     Did at that point Sergeant Teran say that they were  
22    investigating you?

23          A.     They never told me that.

24          Q.     What happened next?

25          A.     They asked me if we could get in the car so we can



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1 A. No.

2 Q. Who answered you, if anybody?

3 A. Who answered me?

4 Q. I'm sorry, I thought you asked them for what?

5 A. No, I told him and asked him what, what am I going  
6 to ask Detective Nieves-Diaz when you're telling me to make  
7 -- you know, place a phone call to him. What did he do?  
8 They didn't want to tell me.

9 Q. What did Sergeant Teran say next?

10 A. Well, he told me -- he was threatening me, telling  
11 me that if I don't place the phone call, I'm going to lose my  
12 detail, which was the police impersonations unit.

13 Q. Then what did you say next, if anything?

14 A. What did I say?

15 Q. When he said that you would lose your detail if you  
16 didn't make the phone call, what happened next?

17 A. I told him I can't place a phone call in to this  
18 guy. The guy is a friend of mine, and if I don't know why I  
19 got to make a phone call in to him, I'm not going to place a  
20 phone call.

21 Q. What happened next?

22 A. They went back, the same people went to the back  
23 again, they conferred, they were on the phone, and then from  
24 there, they told me we were going to go to group one.

25 Q. When you were at Yankee Stadium, and you said you

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1 Q. When you got out of the car and walked upstairs,  
2 were you restrained in any way?

3 A. No.

4 Q. So what happened when you got upstairs?

5 A. Well, we walked into the -- I think it was their  
6 lunchroom, the group one's lunchroom. We were sitting there  
7 for a little while, and sergeant -- I think it was Sergeant  
8 Crowley, asked me if I could give him my weapon. I told him  
9 "Why do I have to give you my weapon?" Then he gave me some  
10 jive story that, you know, we're in group one, they don't  
11 like people here with their weapon. So I said, you know  
12 what, here, I gave it to him.

13 Q. Did he request anything else from you, like your  
14 shield or anything like that?

15 A. No.

16 Q. So what happened after you gave him your weapon?

17 A. After I gave him my weapon, I figured these guys --  
18 I'm in custody, because I couldn't go anywhere, I felt like a  
19 prisoner now.

20 Q. Before you gave them your weapon, did you feel like  
21 you were in custody?

22 A. At the beginning, yes, when they were in front of  
23 my house, they all surrounded me. I wasn't free to go  
24 anywhere.

25 Q. Did they tell you that you weren't free to go

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1 anywhere?

2 A. No, just their body language.

3 Q. Did they threaten you with discipline if you didn't  
4 go with them? Let's go back to your house, when you got in  
5 the car with them to go to Yankee Stadium. Did they threaten  
6 you if you didn't go with them?

7 A. No, they threatened me with losing my detail when I  
8 was by Yankee Stadium, if I didn't make a phone call to  
9 Nieves-Diaz.

10 Q. At any point did either of the defendants, Agent  
11 Hosey or Sergeant Crowley, tell you that you were under  
12 arrest?

13 A. No.

14 Q. Sergeant Crowley, you said you gave him your  
15 weapon. What happened next, if anything?

16 A. When I gave him my weapon I sat back in the room.  
17 And I wanted to go to Thomas Street, to talk to the delegate  
18 to get me a lawyer, 26 Thomas Street, the DEA building, but  
19 now I couldn't leave because I had given him my gun. Now, I  
20 don't want him safeguarding my weapon and get in trouble for  
21 that.

22 Second of all, I asked Sergeant Crowley, every time  
23 I told Sergeant Crowley, listen, I am going to go to the  
24 bathroom, because I wanted to see if I could get out of the  
25 building, Sergeant Crowley followed me to the bathroom and he

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1 stood guard, like if I was a prisoner, the way we take  
2 prisoners to the bathroom and watch over them. That's when I  
3 knew I couldn't leave.

4 Q. So you say he waited for you outside of the  
5 bathroom?

6 A. No, he stood at the door of the bathroom and  
7 watched me do whatever I had to do in the bathroom.

8 Q. Inside of the bathroom?

9 A. Yes.

10 Q. Did they question you at group one?

11 A. No.

12 Q. So what else happened, if anything, at group one?

13 A. What I was at group one for, I about I think I got  
14 there about the 8:00 or 9:00, I was about there until 5:00 in  
15 the afternoon. I wasn't able to go eat. I was there all day  
16 without a meal, without anything. Then Captain Scollan  
17 calls, one of the -- I don't know if it was Sergeant Crowley  
18 or Sergeant Morton's phone, the cell phone, and they put me  
19 on the phone and, you know, he asked me am I willing to place  
20 a phone call to Detective Nieves-Diaz, and I told him no, I  
21 am not going to place a phone call.

22 I explained to him, Captain Scollan, that he had  
23 held me here for about ten or 12 hours, I don't exactly  
24 remember how much. I hadn't had a meal, I felt like a  
25 prisoner. He told me, "What are you worried about, you're

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1 going to get paid." I told him, "I don't know if you  
2 remember, but I had to call my sergeant and tell him that I  
3 need the day off because I had a house emergency, because you  
4 didn't want me to tell these people that I was with you," and  
5 he goes, "Don't worry, we'll pull your 28." And I told him,  
6 "I don't want you to pull my 28. You kept me here this long,  
7 you're not pulling my 28. You kept me here for like  
8 12 hours, I don't want to hear that."

9 Q. What does that mean, pull your 28?

10 A. Pull my 28 means that -- 28 is what we fill out  
11 when we need a day off. He was just going to take it back  
12 like if I had worked that day. Then he told me, he goes,  
13 "Listen, if you change your mind, we're going to put on  
14 modified assignment. We will say that you had a domestic  
15 problem. That way, in case you want to work with us later on  
16 nobody's going to know that you were placed on modified  
17 because of this incident. You were placed on modified  
18 because of a domestic incident."

19 MR. GREENWALD: Change your mind about what?

20 THE WITNESS: If later on I decide to make a  
21 phone call to Nieves-Diaz.

22 Q. Just for clarification, do you believe that you  
23 were placed on modified duty because you would make the call  
24 to Detective Nieves-Diaz?

25 A. I believe so, yes.

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1 Q. Let's just back up a little bit. Did you ever ask  
2 any of the defendants to give you something to eat during the  
3 day?

4 A. Did I ever ask them, no. Already I was hurt and  
5 upset, because these people have violated our police rules,  
6 and they have violated my civil rights. These are people  
7 that have college degrees. All I have is a high school  
8 education, and I knew that.

9 Q. When you say they violated the police rules, what  
10 rules are you referring to?

11 A. The rules that if I'm a subject of investigation,  
12 they're supposed to give me ample time to get a lawyer so  
13 that they can question me with a recording during a G015, you  
14 know, an official investigation. I was a subject, and they  
15 tried to use the FBI as a go-between to ask me questions so  
16 they can use, and Sergeant Teran still asked me questions  
17 there.

18 Q. Were you the subject, to your knowledge, the  
19 subject of an investigation, or was it Vasquez that was the  
20 subject of an investigation, and this is to your knowledge?

21 MR. GREENWALD: I object to that form. You  
22 can ask him whether he was told that or not.

23 Q. Were you told you were the subject of an  
24 investigation?

25 A. Not at that point , no.

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1 Q. Did Scollan tell you what would happen if you  
2 decided to place the call to Mr. Diaz?

3 A. No.

4 Q. So after you went back to group 51, what happened  
5 next, if anything?

6 A. After I gave him all my guns, they informed, the  
7 sergeant that was there, I don't know if it was Schumacher,  
8 that I was going to be placed on modified assignment, which  
9 is very embarrassing.

10 Q. Would that be Sergeant Garland?

11 A. I don't know if he was there.

12 Q. They told him while you were standing there that  
13 you were going to be placed on modified?

14 A. Yes.

15 MR. GREENWALD: Who is "him" in that question?

16 THE WITNESS: It was one of my sergeants, I  
17 don't know which sergeant, it was a sergeant from  
18 51.

19 Q. Just for clarification, who were the two people  
20 that went with you back to group 51?

21 A. Sergeant Crowley went back with Sergeant Morton. I  
22 don't know if that was his name, I think it was Sergeant  
23 Morton, I don't know if his name is Morton.

24 Q. Can you describe Sergeant Morton or the person that  
25 you said went back with you?

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1 A. Yes. Well, the ID card is more official than the  
2 police badge, they really want to see the identification card  
3 other than the badge, anywhere you go.

4 Q. The badge is nicer, no?

5 A. Yes, but they sell badges anywhere, so they don't  
6 want you impersonating.

7 Q. So the next day, where did you report to?

8 A. The next day I went to my office, group 51.

9 Q. So you were on modified but still at group 51?

10 A. I was still there, yes.

11 Q. When you were on modified, what did you do every  
12 day? Did it vary or was it --

13 A. It varied. I picked up the phone calls, did  
14 administrative work.

15 Q. Did you work overtime when you were on modified  
16 duty?

17 A. You're not allowed.

18 Q. Let's go back to the day on or about July 8, 2004,  
19 when you went home that day, did you contact the union then?

20 A. Yes.

21 Q. How did you contact them?

22 A. I called up.

23 Q. Who did you call?

24 A. I don't remember exactly.

25 Q. Do you recall what you said?